

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

New England Power Company

Docket No. ER07-694-000

ORDER ACCEPTING AND SUSPENDING FILING AND ESTABLISHING  
HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued May 25, 2007)

1. In this order, we accept for filing New England Power Company's (New England Power) amendment to its terms and conditions governing integrated facilities service (IFA Amendment)<sup>1</sup> under Schedule III-B of New England Power's FERC Electric Tariff Original Volume No. 1 (Tariff No. 1), and suspend it for a nominal period, to become effective June 1, 2007, as requested, subject to refund. We also establish hearing and settlement judge procedures.

**Background**

2. On March 30, 2007, New England Power submitted the IFA Amendment. Currently, New England Power provides transmission credits to the Narragansett Electric Company (Narragansett) under Tariff No. 1 for the use of Narragansett's transmission facilities.<sup>2</sup> Narragansett also submitted notices of cancellation for three rate schedules that are intended to be superseded by the IFA Amendment. Narragansett purchases full requirements service and transmission service from New England Power. The IFA Amendment will consolidate the costs that are now recovered under these various agreements under one consistent set of terms and conditions. The revenue requirement formula under Tariff No. 1 is updated so that it will reconcile actual costs monthly and

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<sup>1</sup> The proposed amendment is designated as FERC Electric Tariff First Revised Volume No. 1.

<sup>2</sup> New England Power and Narragansett are both wholly-owned subsidiaries of National Grid USA (National Grid).

more closely align with transmission rate formulas generally applicable for regional transmission rates in New England. New England Power and Narragansett request that the IFA Amendment and the notices of cancellation be made simultaneously effective as of June 1, 2007.

3. New England Power explains that Narragansett's transmission and generation facilities have been made available since 1967 for New England Power's operation and control pursuant to an integrated facilities agreement. Under the terms of New England Power's Tariff No. 1, Schedule III-B, these facilities have been paid for in the form of a credit to New England Power's monthly billings to Narragansett. Similarly, prior to the merger of National Grid and Eastern Utilities Associates (EUA) in May, 2000, EUA subsidiaries Newport Electric Corporation (Newport) and Blackstone Valley Electric Company (BVE) made their transmission and generation facilities available for integrated control and operation to their affiliate Montaup Electric Company (Montaup) in exchange for credits on their respective transmission bills. Newport's transmission facilities were supported by Montaup under Newport's Rate Schedule FERC No. 7 while BVE's facilities were supported by Montaup under BVE's FPC Electric Rate Schedule Nos. 19 and 21. Narragansett was named successor to Newport's Rate Schedule FERC No. 7 and BVE's FPC Electric Rate Schedule Nos. 19 and 21 were re-designated as Narragansett's FERC Electric Rate Schedule Nos. 43 and 45, respectively.

4. New England Power states that in the late 1990s, Narragansett and Newport divested their respective generating facilities so that the generation support portions of these agreements were no longer necessary. Effective with the merger of National Grid and EUA in May 2000, New England Power became successor in interest to Montaup, and Narragansett became successor in interest to BVE and Newport. All of the transmission facilities owned previously by BVE and Newport became Narragansett facilities. Thus, Narragansett currently receives compensation from New England Power for the use of Narragansett's transmission facilities under Schedule III-B of Tariff No. 1 and under FERC Electric Rate Schedules 7, 43 and 45.

5. New England Power states that the currently effective Tariff No. 1 Schedule III-B revenue requirement formula is composed of both fixed components and components that vary monthly based on actual costs. The current rate was established effective January 1, 1996 in Docket No. ER96-298-000. Revenue requirements under Rate Schedules 7, 43 and 45 are each determined annually based on the prior calendar year's actual costs. The present formula rate determined pursuant to Rate Schedule No. 7 became effective May 1, 1999, in Docket No. ER99-2469-000. The present formula rate used for Rate Schedules 43 and 45, as supplemented periodically to update BVE's cost of capital or its transmission facilities in service, were originally approved to become effective as of August 1, 1973 and May 19, 1975, respectively.

6. New England Power states that there are two primary reasons for the proposed IFA Amendment. First, the IFA Amendment proposed in this proceeding would consolidate four different rate schedules into a single tariff rate, thus putting all of Narragansett's transmission facilities under a single rate and streamlining the administrative process necessary for determining the proper level of support for Narragansett's facilities. Second, the transmission rate formula to be implemented has also been updated so that it more aligns with Narragansett's actual cost incurrence. Under the proposed rate formula, which incorporates the Commission-approved return on equity, Narragansett's transmission revenue requirements will be determined monthly based on actual costs. New England Power states that this method of determining support costs on an actual monthly basis, based on data used to support Narragansett's FERC Form 1, will help to eliminate some of the present lag between cost incurrence and rate recovery. This method will become increasingly important during the coming years as National Grid will soon construct significant transmission projects designed to benefit the entire New England region. New England Power asserts that the proposed formula rate will provide the same level of timely cost recovery that is currently given to New England transmission assets.

7. New England Power states that the overall effect of the proposed IFA Amendment submitted in the instant filing is a rate decrease for Narragansett. The proposed modifications would decrease New England Power's bills to Narragansett by approximately \$1.49 million or 5 percent during the 2005 calendar Period I test year used to derive Narragansett's overall revenue requirement. Inasmuch as Narragansett's credits are similar to a lease, there are no kW or kWh billing determinants applicable in the revenue statement.

8. New England Power explains that because the overall credit delivered to Narragansett is a line item component to the formula transmission rate used by New England Power for determining its overall transmission revenue requirement under Schedule 21-New England Power of the ISO-New England Inc. FERC Electric Tariff No. 3 (ISO-NE Tariff), the change in the credit will result in increases to New England Power's overall transmission revenue requirement. New England Power's increased cost of support to Narragansett will translate into an increase in the amount that transmission customers will pay for use of the entire integrated New England Power system under New England Power's Schedule 21 revenue requirement. For calendar year 2005, New England Power's Schedule 21 revenue requirements were approximately \$199 million. The proposed IFA amendment change of \$1.49 million would result in an increase of less than one percent for New England Power's Schedule 21 wholesale customer rate group.

9. New England Power and Narragansett state that they have revised Tariff No. 1 to conform with the Commission's tariff notation requirements under Order No. 614 and that the only substantive terms of Tariff No. 1 that have been amended are those

concerning the new formula rate presented in Schedule III-B. New England Power and Narragansett note that certain sections of Tariff No. 1 that were outdated or no longer relevant have been eliminated.

### **Notice of Filing and Responsive Pleadings**

10. Notice of New England Power's filing was published in the *Federal Register*, 72 Fed. Reg. 18,975 (2007), with interventions and protests due on or before April 20, 2007. The Attorney General of the Commonwealth of Massachusetts (Massachusetts Attorney General) filed a timely motion to intervene and protest. New England Power filed an answer to the Massachusetts Attorney General's protest. On May 11, 2007, the Attorney General of Rhode Island and the Rhode Island Division of Public Utilities and Carriers (Rhode Island) filed a motion to intervene out-of-time. Given the early stage of this proceeding, and the absence of any prejudice or delay, we will accept Rhode Island's motion to intervene filed out-of-time. On May 23, 2007 the Massachusetts Attorney General filed an answer to New England Power's answer.

11. Massachusetts Attorney General protests the proposed increase in New England Power's overall revenue requirement. Massachusetts Attorney General states that New England Power's proposal, if approved, will increase costs to its transmission customers, and that New England Power has shown neither how the increase will affect individual customers nor how Narragansett's future transmission investment will impact the magnitude of the cost increase.

12. Massachusetts Attorney General argues that without this information, the Commission cannot determine whether the resulting rates will be just and reasonable. Massachusetts Attorney General notes that New England Power is proposing to implement a monthly formula rate taken from values not directly in the FERC Form 1, and that although New England Power claims the proposed formula rate will be based on Narragansett's monthly financial statements, New England Power does not explain how it will determine the monthly values. Massachusetts Attorney General further notes that other than to claim that Narragansett's monthly financial statements are used to develop its FERC Form 1 data, New England Power provides no clear specification of the data inputs. Massachusetts Attorney General states that there is no link between the monthly information the Company proposes using and FERC Form 1 data as required by the Commission's formula rate tariffs. Massachusetts Attorney General points out that the Commission "generally requires formula rates to be specific enough for any reasonably knowledgeable party to be able to calculate for itself what charge will be produced by the formula." Massachusetts Attorney General argues that this requires that the data inputs and formula allocations be clearly specified so that they cannot be revised at the company's discretion.

13. Where filed rates have not met this standard, Massachusetts Attorney General continues, the Commission has ordered changes to enforce compliance. Massachusetts Attorney General argues that the Commission's policy requires the specification of the FERC Account balances that make up the amount of costs to be allocated, and specific formula allocations that provide a means for the charges to be calculated with mathematical certainty, and that without the appropriate information, the Commission cannot determine that these rates are just and reasonable.

14. Massachusetts Attorney General asks that the Commission dismiss New England Power's filing and order New England Power to refile tariffs in compliance with the Commission's formula rate and cost shifting policies or, in the alternative, to schedule hearings on the issues.

15. In its answer, although New England Power admits that the change to the IFA Agreement will affect its wholesale transmission customers, it argues that the Massachusetts Attorney General is incorrect that the IFA Agreement needs to show how this change would impact individual customers. It asserts that the Commission's regulations require that cost of service statements must provide present and proposed revenues for the rate schedule to be changed, which in this proceeding is Schedule III-B, and Narragansett is the only customer taking service under the formula rate schedule set forth in Schedule III-B. New England Power asserts that, because it provided the required cost of service statement information for Narragansett in the IFA Amendment filing, the information provided in the IFA Amendment satisfies all of the requirements of the Commission's regulations.

16. According to New England Power, the Massachusetts Attorney General does not adequately support its argument that the Commission requires more information than New England Power has already provided in the IFA Amendment. New England Power states that the Massachusetts Attorney General's position appears to assert that any transmission owner within an independent system operator (ISO) or regional transmission organization (RTO) that has a regional formula transmission rate should be required to calculate and show the impact of that transmission owner's revenue requirements on every entity that takes transmission service under the RTO's or ISO's regional tariff. The Commission has not imposed any such burden and it should not do so here. Moreover, New England Power maintains that it lacks the information necessary to determine the effect of implementation of the IFA Amendment on transmission customers. New England Power states that it is unable to determine how each transmission customer would be affected due to numerous factors, including future load and future changes to the revenue requirements of other transmission owners.

17. New England Power also disagrees with the Massachusetts Attorney General that New England Power needs to show how, pursuant to implementation of the IFA

Amendment, Narragansett's future transmission investments will impact the magnitude of cost increases for New England Power under Schedule 21. According to New England Power, formula rates are intended to ensure that future transmission rates are based on actual costs, therefore it does not need to show how future transmission investments affect cost increases. New England Power asserts that if the Massachusetts Attorney General believes that the inclusion of a particular transmission project in a data input for transmission investment results in an unjust and unreasonable rate, it may file a complaint under section 206 of the Federal Power Act (FPA). Further, New England Power argues that it cannot accurately predict how future transmission investment would impact a cost increase.

18. Finally, New England Power maintains that the formula rate and data inputs proposed in the IFA Amendment are sufficiently specific. According to New England Power, the formula rate in Schedule III-B is similar to, and stated as clearly and concisely as, the Commission-approved formula rate contained in New England Power's Schedule 21. Each of those formula rates sets forth the calculation for determining transmission revenue requirements, lists the inputs to be included in each of formula rates, and provides a description of the inputs.

19. As to the data inputs for the Schedule III-B formula rate, New England Power explains how the monthly values proposed in the formula rate will be determined:

In compliance with the Commission's filing requirements, the Statement BK Period I cost of service calculation is based on calendar year data. However, the proposed formula rate is designed to be calculated on a monthly basis and will ultimately be based on Narragansett's monthly financial statements. Narragansett's monthly financial statements are the basis used to develop its FERC Form 1 data. Thus, each month, gross investment for each identified transmission asset will be updated monthly and will be consistent with the information provided in the FERC Form 1 on an annual basis. The monthly updates will utilize National Grid's plant accounting records where each Narragansett transmission asset is assigned a unique designator, and this designator provides the capability to maintain an accurate record of all plant addition and retirement history related to a specified asset.

20. Thus, according to New England Power, Statement BK shows that it has used FERC Form 1 data to conduct its cost of service calculation. Further, much like New England Power currently uses actual monthly financial data to compute its cost of service under NEP Schedule 21, it also plans to calculate the Schedule III-B formula rate on a monthly basis using the actual information that is used to develop Narragansett's FERC Form 1 data. The monthly updates will use National Grid's plant accounting records,

which will mean that the updates will use the Uniform System of Accounts set forth in the Commission's regulations.

21. New England Power asserts that its financial statements are accurate, and Narragansett will assign unique designators and maintain accurate records (in accordance with the Uniform System of Accounts) as to all specified assets. These records would be subject to Commission audit. The sum total of the actual monthly information for a given year will subsequently be provided in Narragansett's FERC Form 1 for that year. According to New England Power, if the Massachusetts Attorney General believes there is a discrepancy between the yearly sum total of the actual monthly information and the FERC Form 1 data, it can always raise that issue in a complaint with the Commission pursuant to section 206 of the FPA. Given the protection afforded by this right to bring a complaint and the potential for Commission review of books and records through an audit, New England Power maintains that the Commission should permit Narragansett to use the actual monthly information as input data in the Schedule III-B formula rate.

22. In its answer, the Massachusetts Attorney General asserts that New England Power fails to respond to the specificity and transparency issues raised by the Massachusetts Attorney General. According to the Massachusetts Attorney General, although New England Power claims the monthly financial statements are the basis used to develop its FERC Form 1, it does not claim that the monthly billings will be based on known, published data; data that would allow a customer to accurately anticipate charges billed under New England Power's tariffs. Massachusetts Attorney General maintains that this is in violation of the Commission's formula rate requirements because specificity and transparency are particularly important to a proposal where costs may escalate under proposed large scale transmission upgrade and expansion plans. Massachusetts Attorney General asserts that, although New England Power proposes to assign unique designators and maintain accurate records, customers will not know until after the fact on what data their charges are based. Therefore, according to the Massachusetts Attorney General, since the proposed tariff does not provide specific and transparent information, New England Power has not met its burden under section 205 of the FPA to show that its rates are just and reasonable.

### **Discussion**

23. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the Massachusetts Attorney General's unopposed motion to intervene serves to make it a party to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept New England Power's and the Massachusetts Attorney General's answers because they have provided information that assisted us in our decision-making process.

24. New England Power's proposed IFA Amendment raises issues of material fact that cannot be resolved based on the record before us, and are more appropriately addressed in the hearing and settlement judge procedures ordered below. Such issues include, but are not necessarily limited to, that New England Power does not explain in sufficient detail how the charges under the proposed formula rate are calculated, and that New England Power does not provide customers with sufficient ability to monitor the charges under the proposed formula rate.

25. Our preliminary analysis indicates that the IFA Amendment has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept New England Power's IFA Amendment for filing, suspend it for a nominal period, make it effective June 1, 2007, as requested, subject to refund, and set it for hearing and settlement judge procedures.

26. We also accept the notices of cancellation for Narragansett Rate Schedule Nos. 7, 43 and 45 effective June 1, 2007, as requested, and subject to the outcome of the hearing and settlement judge procedures ordered below.

27. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>3</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.<sup>4</sup> The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of this order concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

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<sup>3</sup> 18 C.F.R. § 385.603 (2006).

<sup>4</sup> If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience ([www.ferc.gov](http://www.ferc.gov) – click on Office of Administrative Law Judges).



The Commission orders:

(A) The proposed IFA Amendment is hereby accepted for filing and suspended for a nominal period, to become effective June 1, 2007, as requested, subject to refund, as discussed in the body of this order.

(B) The notices of cancellation for Narragansett Rate Schedule Nos. 7, 43 and 45 are also accepted effective June 1, 2007, and subject to the outcome of the hearing and settlement judge procedures, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the IFA Amendment. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2006), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(E) Within thirty (30) days of the date of this order, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, N.E., Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish

procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.